

DOCKET NO: 290346US40PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
NAOHISA HIGASHIYAMA : EXAMINER: CIRIC, LJILJANA V
SERIAL NO: 10/579,470 :
FILED: MAY 15, 2006 : GROUP ART UNIT: 3744
FOR: EVAPORATOR AND PROCESS :
FOR FABRICATING SAME :

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Election of Species Requirement stated in the Official Action dated September 3, 2009, Applicant provisionally elects the first species (embodiment of Figs. 1-13), and identifies Claims 1-7, 19, 21 and 22 as readable on the elected species.

Applicant respectfully traverses the outstanding Election of Species Requirement for the following reason.

MPEP §803 states the following:

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.

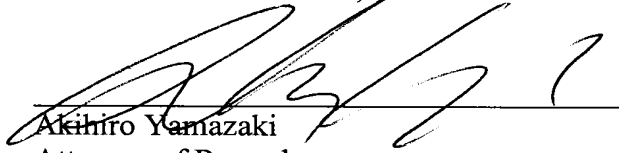
In the present application, Claims 1-18 are directed to evaporators, Claims 19 and 20 are directed to process for fabricating an evaporator, Claim 21 is directed to a refrigeration cycle including an evaporator, and Claim 22 is directed to a vehicle having a refrigeration cycle including an evaporator. Hence, it appears that these claims according to the present

invention are part of an overlapping search area and that a search for Claims 1-7, 19, 21 and 22 would necessarily include a search directed to Claims 8-18 and 20 as well. It is therefore believed that there is no undue burden on the Examiner to search all the claims under MPEP §803, and Applicant respectfully traverses the Election of Species Requirement on the grounds that a search and examination of all the claims in the present application would not place a *serious* burden on the Examiner.

Therefore, it is respectfully requested that the requirement to elect a single species be withdrawn, and that a full examination on the merits of Claims 1-19 be conducted.

Respectfully submitted,

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